

REMARKS

Claims 77-78, 80-87, 89, 90, 92-94, 96, 102, 104-105, 125-129, 131-135 and 137-139 are pending in the application. Claims 87 and 89 were withdrawn from consideration. Claims 77, 78, 80-86, 90, 92-94, 96, 102, 104, 105, 125-129, 131-135, and 137-139 are under examination. Applicant acknowledges with thanks the Examiner's determination that Claims 77, 78, 80, 84-86, 125-129, 137 and 138 are allowable (pg 13 of Office Action). Claims 90, 92-94, 96, 102, 104, 105, 131-135 and 139 have been cancelled without intending to abandon or to dedicate to the public any patentable subject matter. Claims 81-83 have been amended. New claims 140-148 have been added. Support for the new claims may be found throughout the specification and include the following sections of the specification: page 8 lines 1-2, page 10 lines 31-35, page 11 lines 24-26, Examples 1 (parts A, B, C, D), 2, 9, 12 and Table 1. Applicant reserves the right to prosecute cancelled subject matter in a continuing application.

The amendments have been made to place the claims in better form for examination and to further obviate the 35 U.S.C. 103 and 112 rejections as set forth in the Office Action dated July 7, 2009. The amendments have also been made to proceed with allowance of the allowed claims. It is believed that none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is respectfully requested.

Previous Claim Rejections Under 35 U.S.C. § 112 and 102(e):-Withdrawn

The previous rejection of Claims 126 and 137 under 35 U.S.C. § 112, second paragraph has been withdrawn by the Examiner in view of Applicant's previous claim amendments.

The previous rejection of Claims 68, 77, 78, 80-86, 125-129 and 137 under 35 U.S.C. § 102(e), on the basis that the claims are anticipated by Strom, et al. (US Patent No. 6,165,476, filed 10 July 1997) has been withdrawn by the Examiner in view of Applicant's previous claim amendments.

Rejection Under 35 U.S.C. § 103-Blumberg, et al., in view of Mapelli, et al.:

The Examiner has maintained the rejection of Claims 90, 92-94, 96, 102, 104, 105, 131, 132 and 139 under 35 U.S.C. § 103(a), on the basis that these claims are unpatentable over Blumberg, et al., (U.S. Patent No. 6,485,726), in view of Mapelli, et al., (U.S. Patent No. 5,519,115). Applicant respectfully disagrees with the Office Action as discussed in Applicant's previous response however; in the interest of expediting prosecution and without acquiescing in the rejection, Applicant's have canceled claims 90, 92-94, 96, 102, 104, 105, 131, 132 and 139. This rejection is now moot in view of the canceled claims and withdrawal of the rejection of Claims 90, 92-94, 96, 102, 104, 105, 131, 132 and 139 under 35 U.S.C. § 103(a), is respectfully requested.

Rejection Under 35 U.S.C. § 103- Blumberg, et al., in view of Mapelli, et al., in further view of Qiu, et al.:

The Examiner has maintained the rejection of claims 133-135 under 35 U.S.C. § 103 (a), on the basis that the claims are unpatentable over Blumberg, et al., in view of Mapelli, et al., and further in view of Qiu et al. Applicant respectfully disagrees with the Office Action as discussed in Applicant's previous response however; in the interest of expediting prosecution and without acquiescing in the rejection, Applicant's have canceled claims 133-135. This rejection is now moot in view of the canceled claims and withdrawal of the rejection of Claims 133-135 under 35 U.S.C. § 103(a), is respectfully requested.

New Rejection Under 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected to Claims 81-83 under 35 U.S.C. § 112, first paragraph for lack of enablement. Specifically the Office Action reasons that the specification, while being enabling for a host cell in culture comprising a nucleic acid encoding the fusion protein, does not provide reasonable enablement for *in vivo* transfection. Applicants have amended the claims to clarify that the host cells are isolated.

In view of this amendment, withdrawal of the rejection of Claims 81-83 under 35 U.S.C.

*U.S. Application No. 10/031,154
Office Action Mailed: July 7, 2009*

§ 112, first paragraph is respectfully requested.

Closing Remarks

Applicant believes that the pending claims are in condition for allowance. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-1970, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-1970.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: /Angela M. Domitrovich/
Angela M. Domitrovich
Registration No. 62,948
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: September 11, 2009